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S E C R E T SECTION 01 OF 02 BRASILIA 000806

SIPDIS

DEPARTMENT FOR WHA/BSC, L, PM

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TAGS: [BR](#) [MOPS](#) [PREL](#) [SNAR](#)

SUBJECT: 2008 RENEWAL OF PRESIDENTIAL DETERMINATION (PD)
REGARDING BRAZIL'S SHOOTDOWN (ABD) PROGRAM

REF: A. A) SECSTATE 54183

[B](#). B) 07 BRASILIA 1868

[C](#). C) STATE 57700

[D](#). 07 STATE 17940

Classified By: DCM Phillip Chicola, Reason 1.5 (d)

[1](#). (S) SUMMARY. Per ref a, Post is engaged with the Brazilian government to assess Brazil's safety procedures concerning its Air Bridge Denial (ABD) program, in order to make the annual Presidential Determination (PD). Based on regular contacts with the Brazilian Defense Ministry and air traffic control facilities, post believes that Brazil's safety procedures remain strong, and we will have as good a basis for certification as we have had in previous years. Despite the difficulties presented by the Department's need for over two months to compile the information collected, Post is actively engaged in fulfilling the steps requested reftel a. However, Brazilian authorities considers any effort by an outside government to exercise "oversight" of a Brazilian government program to be a violation of national sovereignty, and are particularly sensitive with regard to aviation matters. Post is concerned that the new and increased demands we are requested to make of the GOB, which now go well beyond what was agreed in the 2004 exchange of notes, present insurmountable and unnecessary obstacles to recertification. The steps outlined in ref a effectively require us to second-guess GOB assurances regarding the safety of their ABD procedures, which we do not believe is warranted on the basis of what we already know about Brazil's intentions and efforts with regard to its ABD program. Mission and Bureau plans place a priority on improving cooperation with Brazil, especially in the area of counternarcotics and political-military affairs. In the absence of strong evidence that Brazilian safety procedures have deteriorated refusal to certify will have a significant negative impact on our ability to achieve this objective. Post proposes several measures (see paragraph 5 below) that would serve to improve USG oversight as required by last year's interagency document and increase the Department's confidence in Brazil's ABD program. END SUMMARY

[2](#). (S) Post has been active in working the issues raised in ref a with the Brazilian government, including through contacts with Brazilian air traffic control and the Defense Ministry. In the four years since the exchange of notes, there has been no basis to believe that the ABD program has increased risks to civilian aircraft and considerable evidence of ABD's efficacy in allowing Brazilian authorities to enhance their ability to stop shipments of narcotics through Brazilian airspace. There is nothing to suggest that, once we complete this year's consultations with the GOB, Brazil's safety procedures will be found weaker than in previous years when we have been able to certify. Indeed, following the appointment of Nelson Jobim as Defense Minister

last year, Brazil has focused on improving its air traffic control system and its cooperation with the U.S. As a result, we expect to provide a recommendation that the PD should be renewed for 2008-2009.

¶3. (S) With no evidence that Brazil's safety procedures have worsened, we believe this is the wrong time to increase USG requirements for certification. Our bottom line should be that if Brazil can provide the same level of assurance about its ABD program as in the past, we should be able to make the same determination we have in the past. Managing the political and public diplomacy fallout of non-certification would be a significant challenge, as Brazilians would consider us to be punishing Brazil for maintaining the same level of control that we were able to certify in the past. Failing to certify under present conditions would be seen as a rebuke to DefMin Jobim, one of the strongest supporters of an improved relationship with the U.S., and would jeopardize information sharing that is becoming increasingly important to counternarcotics activities, damaging our own interests in restricting the traffic of illegal drugs. Our interest in increasing sharing of information under a GSOMIA (agreed as a priority by Minister Jobim and Secretaries Rice and Gates) would likely be affected, as well as our interest in signing a Defense Cooperation Agreement, undermining key elements of our plan to advance pol-mil engagement with Brazil, as tasked in ref c. Moreover, failure to certify Brazil's ABD program would belie in a tangible way the message the President, Secretary and Ambassador have repeatedly conveyed to GOB officials: that the USG views Brazil as a valued and trusted partner on military, security, and law enforcement matters.

BRASILIA 00000806 002 OF 002

Specific Challenges

¶4. (S) The main challenge post faced in 2007 was the difficulty of arranging visits to air traffic control facilities. Sensitivities remain high with regard to access by non-Brazilian and Brazilian non-military personnel to military air bases. Raising the profile of our oversight efforts would be counter-productive and would likely lead to greater restrictions on our ability to meet certification criteria. Nonetheless, with the cooperation of our DAO and MLO, we are developing a plan for conducting such visits as prioritized in ref a during the June-July timeframe in the context of other contacts with the air traffic control facilities. The key aspect of post's plan is to make such visits in the context of other contacts, as recommended in refels. Because gaining access to these facilities in this manner is difficult, meeting the ref a target of all four CINDACTAs by July 31 may prove impossible. It should be noted that Brazilian air traffic controllers are all employed by the military; there are no civilian air traffic controllers. Controllers of civilian traffic have no authority to influence potential shoot downs. As a result, military controllers responsible for monitoring civilian aircraft will be the subject of post's visits. Post agrees that it would be ideal to observe a real time interception but notes that doing so in 2007 was a matter of serendipity not likely to be repeated. Post will inquire as to the possibility of seeing a simulation.

¶5. (S) At this time, we do not believe there would be any advantage to trying to negotiate an addendum to the 2004 exchange of notes. As stated above, raising the profile of our oversight effort would be counter-productive. While we may be able to begin a negotiation process this year, it is unclear if such a process could be ever concluded successfully, certainly not in time for this year's certification deadline. Additionally, Brazil would consider any effort by an outside government to exercise "oversight" of any Brazilian government function or program to be a violation of national sovereignty and would be considered

illegal. Any contact with the Brazilians ostensibly aimed at "oversight" will be summarily denied.

¶6. (S) That said, we believe there is some scope to enhance our confidence in Brazil's implementation in light of the 2007 interagency document requesting greater oversight without crossing Brazilian redlines. We propose several possible steps:

-- At the heart of the case for requiring annual certification is uncertainty over Brazil's precise procedures. Ref a clearly states the problem is that "the USG has no direct knowledge of Brazilian procedures." We believe it may be possible to approach Brazil to provide such procedures in writing, provided it is done in the context of an information exchange, i.e. sharing best practices on Air Traffic Control, and not as a unilateral demand for U.S. oversight. As we have been able to certify in the past without being provided with this, it need not be an absolute condition for certification in the future, but could help considerably in making such determinations.

-- In order to encourage sharing of precise policy and procedures, we should be prepared to offer Brazil some incentive to provide its procedures. For example, as long as adequate procedures are in place, and confirmed by an annual visit to Comdabra, we should take any steps possible to make the annual certification process a routine one.

-- The Department should consider supplementing the information we develop from visiting Comdabra and other facilities by tasking U.S. intel agencies to focus collection efforts on Brazil's ABD program, particularly signs that shutdown controls are being relaxed. This is consistent with USG views that national technical means often provide effective verification.

-- The Department should consider funding travel of Brazilian air traffic controllers to the U.S. for exchange visits to U.S. facilities. This would help us argue that the GOB should be more open to us visiting their facilities. It would also provide the opportunity to question the Brazilian controllers on their safety procedures while away from their government's sovereignty concerns.

SOBEL